

**THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MFB Fertility, Inc.,

Plaintiff,

v.

Action Care Mobile Veterinary Clinic, LLC,

Defendant.

Case No. 1:23-cv-03854

Dist. Judge Harry D. Leinenweber

Mag. Judge Gabriel A. Fuentes

UNOPPOSED MOTION TO EXTEND DEADLINE TO FILE DEFENDANT'S REPLY

Defendant Action Care Mobile Veterinary Clinic, LLC (“Action Care” or “Defendant”) by its counsel, respectfully submits this unopposed motion to extend the deadline for Action Care to file its reply in support of Action Care’s Motion to Dismiss Copyright Infringement Claims and for Attorneys’ Fees (“Action Care’s Pending Motion”) [Dkt. 10].

1. On June 20, 2023, Plaintiff MFB Fertility, Inc. (“MFB” or “Plaintiff”) instituted the above-captioned lawsuit against Action Care for alleged infringement of MFB’s intellectual property [Dkt. 6].

2. On September 15, 2023, Defendant filed Action Care’s Pending Motion.

3. On September 19, 2023, the Court set a briefing schedule for Action Care’s Pending Motion, with Plaintiff’s deadline to file a response set to October 18, 2023, and Defendant’s deadline to file a reply set to November 1, 2023.

4. On September 22, 2023, Action Care filed its answer, affirmative defenses, and counterclaims against MFB [Dkt. 15].

5. On October 19, 2023, MFB filed an unopposed motion for extension [Dkt. 16], requesting that the Court extend the deadlines for the parties’ respective deadlines relating to

Action Care's Pending Motion. The Court granted MFB's motion, with MFB's response due by November 10, 2023, and Action Care's reply due by November 24, 2023 [Dkt. 17].

6. On November 9, 2023, MFB filed a second unopposed motion for extension of deadlines to file Plaintiff's response to Action Care's Pending Motion [Dkt. 18]. The Court granted MFB's second motion for extension, resetting MFB's deadline to file a response to November 27, 2023, with Defendant's reply due by December 11, 2023.

7. On November 27, 2023, MFB filed a response to Action Care's Pending Motion, [Dkt. 23], and a motion for leave to amend Plaintiff's complaint ("Motion to Amend") [Dkt. 22].

8. On November 28, 2023, Action Care filed a response to the Motion to Amend, informing the Court of Action Care's willingness to forgo opposing the Motion to Amend, and, *inter alia*, reserving certain rights with respect to future filings [Dkt. 24].

9. On November 29, 2023, MFB filed a reply in support of its Motion to Amend.

10. The Court has not yet ruled with respect to the Motion to Amend and has not set any alternative briefing schedule. As a result, Defendant's deadline to file a reply in support of Action Care's Pending Motion remains December 11, 2023.

11. If the Court grants Plaintiff's Motion to Amend, this will likely result in the mooted of Action Care's Pending Motion. In the interests of preserving resources, if Action Care's Pending Motion is deemed moot, Defendant prefers not to file a reply brief for a mooted motion. If the Motion to Amend is denied, however, Defendant still intends to file a reply brief in support of Action Care's Pending Motion.

12. If the Court denies Plaintiff's Motion to Amend, Defendant requests that the Court grant Defendant fourteen (14) days after such denial to file a reply in support of Action Care's Pending Motion. On the other hand, if the Court grants the Motion to Amend, Defendant requests

that the Court set a briefing schedule with respect to the filing of Plaintiff's amended complaint, deadlines for Action Care to respond to MFB's amended complaint, and deadlines for MFB to respond to Action Care's previously filed counterclaims, which would not be impacted through the filing of an amended complaint.

13. MFB does not oppose this motion.

14. This is Action Care's first request for an extension.

15. Action Care has not waived any objection or defense, including defenses under Federal Rule of Civil Procedure 12(b), by filing this motion.

16. The requested extension does not affect any other deadlines in the above-captioned litigation.

17. No party will be prejudiced by the requested extension.

18. The requested extension is made in the interests of justice and not for the purposes of delay.

Dated: December 11, 2023

Respectfully submitted,

ZLATKIN CANN ENTERTAINMENT

By: /s/ Ilya G. Zlatkin

Ilya G. Zlatkin

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